

1 A. No.

2 Q. So pretty much as soon as you get close,  
3 you get the call from the dispatcher, you  
4 turn around and come back to the station?

5 A. That is what I did.

6 Q. Okay. And then did you go home?

7 A. I can't recall.

8 Q. Okay. You were there for a detail, you  
9 weren't working that day, correct?

10 A. Yes. My assignment was for the detail.

11 Q. As long as the detail was canceled, you  
12 are free to leave. Is that fair?

13 A. Yes, I am.

14 Q. You are entitled to the four-hour minimum,  
15 is that your understanding?

16 A. Yes, I am.

17 Q. Is that -- and that is in the contract as  
18 far as you know, collective bargaining  
19 agreement?

20 A. It is -- the cancellation is. If it is a  
21 seven o'clock detail, they have until 5:30  
22 to cancel.

23 Q. If they cancel after 5:30, if the detail  
24 is canceled after 5:30, you are entitled

1       you a start time and an end time, then a  
2       tally of the amount of hours you worked.

3       Q.    Okay.  So that start and end time, you put  
4       down the total?

5       A.    Yes.

6       Q.    And do you know what you put on the slip  
7       that day?

8       A.    No, I don't.

9       Q.    Have you ever looked at it again?

10      A.    No.

11      Q.    Has anybody ever asked you to see it?

12      A.    No.

13      Q.    You know that C.J. was investigated by  
14      Lieutenant Mitchell regarding this  
15      incident?

16      A.    I know she was investigated.

17      Q.    Okay.  I take it from that answer nobody  
18      told you directly that she was being  
19      investigated?

20      A.    I was investigated so --

21      Q.    Okay.  Tell me about that investigation.

22      A.    I was -- Lieutenant Gagnon, within a week,  
23      had contact with me and just asked me what  
24      had happened in regards to myself.

1           you --

2           Q.     Sure. It is the way I asked you. I asked  
3           you have you now told me everything you  
4           recall about your conversations with Ms.  
5           Jones, and you said no.

6           A.     To the best of my recollection, I have  
7           told you everything I know about my  
8           interaction with her, yes.

9           Q.     Did you ever -- so later on you were asked  
10          about this by Lieutenant Gagnon and by  
11          Lieutenant Mitchell. Did you ever speak  
12          with Ms. Jones about anything?

13          A.     I don't recall.

14          Q.     Did you ever speak with anyone else other  
15          than Lieutenant Gagnon and Lieutenant  
16          Mitchell?

17          A.     Not that I recall.

18          Q.     Now, you know that -- let me ask you this.  
19          To the best of your recollection, you put  
20          down seven to 11 on your time slip?

21          A.     I don't know what I put down on my time  
22          slip.

23          Q.     Did anyone ever criticize you for the way  
24          you filled out those detail slips?

1 A. I have never been criticized.

2 Q. You indicated before you have always been  
3 told it is okay to just put down the time  
4 that the detail is listed for.

5 A. If it is a minimum, if the situation you  
6 say, it doesn't matter what the start time  
7 and end time is as long as you put your  
8 four hours down and your start time.

9 Q. Okay. I am going to ask you the question  
10 again just so the record will read  
11 clearly. It is your understanding that if  
12 you go to a detail and you wind up being  
13 there for less than four hours but you are  
14 entitled to the minimum of the four, it  
15 doesn't really matter what times you put  
16 down, as long as you just put down the  
17 four hours. Is that what you are telling  
18 me?

19 A. Karen Young just told me the total is what  
20 she looks for.

21 Q. Did Karen Young tell you at all how to  
22 fill out the slip?

23 A. No. No one ever taught me how to fill out  
24 one of these.

1 Q. But you had a conversation with Karen  
2 Young about it at some point?

3 A. I have always -- she basically runs the  
4 station and she basically, anything I do,  
5 if I think it is a question, I ask her.

6 Q. Okay. So at some point you spoke with her  
7 about how to fill it out?

8 A. How to fill out detail slips, a time slip.

9 Q. Okay. And did she give you any  
10 instructions about how to fill out the  
11 time slip when you were just getting the  
12 minimum of four?

13 A. I -- no. I can't recall. I --

14 Q. Okay. So is it your custom you usually  
15 put down the hours that it was scheduled  
16 for?

17 A. Yes.

18 Q. And then list the four?

19 A. And then list the four.

20 Q. Would Ms. Young know one way or the other  
21 whether it was a detail that people got  
22 the minimum of four or whether they were  
23 actually there four hours?

24 A. I don't know. I have no idea. You would

1 have to ask her.

2 Q. Now, there has been an allegation that Ms.  
3 Jones suggested to you something about her  
4 putting in that she was there at the  
5 detail or saying that she was there at the  
6 detail even though she wasn't there.

7 A. There was an allegation?

8 Q. There was an allegation that has been  
9 made. Do you recall that she made any  
10 such statement by her?

11 A. No.

12 Q. Did you at any time suggest that she just  
13 put in for saying that she was there?

14 A. Not that I recall, no.

15 Q. Okay. Have you become aware that she put  
16 in for a time slip or a detail slip for  
17 those four hours?

18 A. I had eventually become aware of it, yes.

19 Q. Are you aware of anyone that has  
20 complained about her putting in a detail  
21 slip for those four hours?

22 A. Today, I do, yes. I mean I -- eventually,  
23 yes.

24 Q. Okay. Well, who?

**Deposition of Robert C. Brackett, Jr.**  
**August 31, 2004**

Volume 1  
Pages 1-18  
Exhibits: See index

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10133-MEL

-----  
CAROLYN E. JONES, :  
Plaintiff :  
 :  
v. :  
 :  
WILLIAM A. MASON, ET AL, :  
Defendants :  
-----

DEPOSITION OF ROBERT C. BRACKETT, JR.,  
taken on behalf of the Plaintiffs,  
pursuant to the applicable provisions of  
the Federal Rules of Civil Procedure,  
before Carol A. Fierimonte, Certified  
Shorthand Reporter and Notary Public  
within and for the Commonwealth of  
Massachusetts, (#134693), at the Harwich  
Town Hall, 732 Main Street, Harwich,  
Massachusetts, on Tuesday, August 31,  
2004, commencing at 2:20 p.m.

CAROL A. FIERIMONTE  
Certified Shorthand Reporter  
101 Pond Plain Road  
Westwood, MA 02090  
(781) 762-4421 TELEFAX: (781) 326-7076



1 A. The Chief's secretary. It goes into a box  
2 that is monitored by the Chief's  
3 secretary. She collects them.

4 Q. Okay. Is that Karen Young?

5 A. Yes.

6 Q. Now --

7 A. Or in her absence, a replacement, one of  
8 the other secretaries.

9 Q. Okay. When you do a detail that turns out  
10 to be less than four, you get the minimum  
11 of four, how do you fill that out? How do  
12 you fill the slip out?

13 A. There is no standard way.

14 Q. Okay. Do you have a practice or I mean is  
15 there a typical way you do it yourself?

16 A. Do I?

17 Q. Yes.

18 A. I generally put the hours that I work. It  
19 gives a start time and end time.

20 Q. Yes.

21 A. And then a total hours. And this is  
22 again, we don't -- I don't -- I don't know  
23 what the policy is for filling out the  
24 exact thing. I can only comment on how I

**Deposition of Chief William A. Mason**  
**August 26, 2004**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No: 04-10133-MEL  
Pages 1 to 171  
Volume I

CAROLYN E. JONES,  
Plaintiff,

-vs-

WILLIAM MASON, CHIEF OF  
POLICE HARWICH POLICE DEPARTMENT,  
and the TOWN of HARWICH  
Defendants.

COPY

DEPOSITION of CHEIF WILLIAM A. MASON, called  
on behalf of the Plaintiff, pursuant to the applicable  
Rules Civil Procedure, taken at the Town offices of  
Harwich Town Offices, Harwich, Massachusetts, duly  
sworn before Lisa Lee Gross, Notary Public for the  
Commonwealth of Massachusetts, on Thursday,  
August 26, 2004, at 3:00 p.m.

APPEARANCES:

LAW OFFICES OF TIMOTHY M. BURKE  
BY: Brian J. Rogal, Esq.  
Needham Corporate Center  
160 Gould Street  
Suite 111  
Needham, Massachusetts 02494  
For the Plaintiff.

GILMAN HOLTZ, P.C.  
BY: Robert J. Van Campen, Esq.  
Michael Gilman, Esq.  
25 New Chardon Street  
Boston, Massachusetts 02114  
For the Defendants.

1 Q. Is there any memo in his file?

2 A. No.

3 Q. Why not?

4 A. Why? Because that was an inappropriate  
5 conversation, rather than a fraud, for showing  
6 up -- for attempting to get paid for a job you  
7 never showed up to.

8 Q. So he suggested that Ms. Jones lie about  
9 what she did, you don't consider that to be an  
10 inappropriate conversation?

11 MR. VAN CAMPEN: Objection.

12 A. I didn't say that.

13 Q. You didn't -- don't consider that to be  
14 a suggestion of fraud?

15 A. (No response.)

16 Q. Is there an answer, sir?

17 A. I do not consider that as egregious --  
18 as I said, Lieutenant Mitchell counseled the  
19 employee.

20 Q. The question to you, Officer Cronin  
21 suggests to Ms. Jones, "...just say you came  
22 in and left." Now, that's a predicate to  
23 putting in a slip that says you were there,  
24 you don't consider that to -- him advising her

1 to commit a fraud?

2 A. I think that is inappropriate activity.

3 Q. And what discipline did he receive for  
4 that?

5 A. He was counseled by Lieutenant Mitchell.

6 Q. And you are satisfied with that  
7 discipline?

8 A. That particular aspect of it, under the  
9 circumstances, yes.

10 Q. Let's leave that topic and find another  
11 one, your counsel would say.

12 Do you have any concern or problem  
13 with Ms. Jones' use of sick leave?

14 A. In general?

15 Q. In general.

16 A. No.

17 Q. Now, Ms. Jones allegation that she hurt  
18 her hand while she was at the range?

19 A. Yes.

20 Q. You are aware of that?

21 A. Yes.

22 Q. On or about April 15th 2003, correct?

23 A. Yes.

24 Q. Do you have any reason to believe that

1 she didn't hurt her hand in that fashion?

2 A. With the information that I have now?

3 Q. Yes?

4 A. No.

5 Q. Okay. The information that you had, at  
6 any time did you have any reason to believe  
7 that she hasn't actually hurt her hand?

8 A. No.

9 Q. Do you have any reason to believe --

10 A. Wait a minute, counselor, at any point?

11 Q. Yes.

12 A. Yes.

13 Q. When?

14 A. At one point I did.

15 Q. When was that?

16 A. That was the day that Lieutenant  
17 Mitchell made the contact with Ms. Jones to  
18 advise her that she was under investigation  
19 for the sick leave issue.

20 Q. How long after was she -- April 15th,  
21 how long after that date?

22 A. Do you mind if I check my notes?

23 Q. No.

24 A. Counsel, I'm sorry, I thought I had that

1 Q. After that?

2 A. After that, after that date of April  
3 23rd, not until I got the information -- I was  
4 -- I doubted it until I got the information  
5 from the town physician, Dr. Minor.

6 Q. And after you received -- what did you  
7 get from him?

8 A. A report that talked about gatekeepers  
9 thumb. Which is an injury that is frequently  
10 connected with a repetition of the recoil of a  
11 hand gun. I particularly appreciated Dr.  
12 Minor's opinion, simply because he was a  
13 military doctor who had a background in those  
14 types of injuries.

15 Q. Had you heard the term before,  
16 gatekeepers thumb?

17 A. Never heard of it before.

18 Q. After that did you have reason to doubt  
19 that Ms. Jones had suffered an injury at the  
20 range?

21 A. No.

22 Q. You agreed that if she injured her hand  
23 at the range, that it would be job related?

24 A. Yes.

1 Q. Did you ask her to see the town doctor?

2 A. Yes, I did.

3 Q. Previously to that she had provided some  
4 emergency room records, she had seen a doctor  
5 at the Cape Cod Hospital?

6 A. I believe the sequence of events was,  
7 that she did see a doctor at the Cape Cod  
8 Hospital, and then she was referred to the  
9 town physician.

10 Q. Was she requested or required to seek  
11 any other medical opinion?

12 A. Not that I recall. That I ordered. Dr.  
13 Minor may have ordered something, but nothing  
14 that I recalled requesting.

15 Q. So at the time you received Dr. Minor's  
16 report, you were satisfied she had an injury,  
17 that it was job related, and that there -- it  
18 was likely job-related?

19 A. Yes.

20 Q. And were you satisfied at that point  
21 that that precluded her from working?

22 A. Dr. Minor's report said that she was  
23 unable to work because of the repetitive  
24 motion of her thumb.



AMERICAN ARBITRATION ASSOCIATION

No: 11 390 01615 03

Pages 1 to 338

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IN RE: CAROLYN JONES  
and THE TOWN OF HARWICH  
-----

COPY

\* \* \* \* \*

Date: Tuesday, August 3, 2004

Time: 10:30 a.m.

Held at: Harwich Town Hall

Harwich, Massachusetts

Before: Michael W. Stutz, Esq.

American Arbitration Association

APPEARANCES:

LAW OFFICES OF TIMOHTY M. BURKE

BY: Timothy M. Burke, Esq.

Brian Rogal, Esq.

Needham Corporate Center

160 Gould Street

Suite 111

Needham, Massachusetts 02494

For Carolyn Jones.

GILMAN HOLTZ, P.C.

BY: Michael Gilman, Esq.

25 New Chardon Street

Boston, Massachusetts 02114

For The Town of Harwich.

ALSO PRESENT: Carolyn E. Jones

Adam Hutton, Union President

Lt. Barry Mitchell

I N D E X

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Union Witness:				
FIRE CHIEF ROBERT PETERSON				
(by Mr. Rogal)	29	39		
(by Mr. Gilman)		36		

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Town of Harwich:				
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Town of Harwich:				
THOMAS GAGNON				
(by Mr. Gilman)	70		99, 108	
(by Mr. Burke)		81		103

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Town of Harwich:				
EDWARD CRONIN	109		136	
(by Mr. Gilman)				
(by Mr. Burke)		116		138

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Town of Harwich:				
ROBERT BRACKETT	139		154	
(by Mr. Gilman)				
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	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Town of Harwich:				
CHIEF WILLIAM A. MASON				
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I N D E X

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CAROLYN E. JONES				
(by Mr. Rogal)	226		289	
(by Mr. Gilman)		263		

Union Witness:	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
ADAM HUTTON				
(by Mr. Rogal)	290			
(by Mr. Gilman)		301		

REBUTTAL WITNESS:	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
CHIEF MASON				
(by Mr. Gilman)	311			
(by Mr. Rogal)		313		

REBUTTAL WITNESS:	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
CAROLYN E. JONES				
(by Mr. Rogal)	331			

REBUTTAL WITNESS:	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
ADAM HUTTON				
(by Mr. Rogal)	332			

1 Q. You knew it before this supposed  
2 conversation in December of 2003, that she  
3 blamed you in part for her termination?

4 A. We had not had any conversation to that  
5 effect.

6 Q. You are not friends with her?

7 A. I -- at that point -- as I said, we were  
8 friends, but after she was terminated, quite  
9 naturally, the relationship cooled.

10 Q. Now, you -- all right.

11 How long had it been since you had  
12 seen her before that time?

13 A. Like I said, she had been around the  
14 house. She did some yard work for Dave. I  
15 just -- I just saw her in passing.

16 Q. No conversations?

17 A. I might have waved. She might have  
18 nodded back. That was about the extent of it.  
19 No real conversation.

20 Q. And you don't know who this guy was that  
21 intimidated you?

22 A. I wasn't intimidated. But I have since  
23 learned the identity of the person who  
24 accosted me.

1 is that correct?

2 A. No, it does not.

3 Q. In fact, you never had a conversation  
4 with her in which her probationary status was  
5 discussed?

6 A. No. We discussed seniority.

7 Q. You never had a conversation with Ms.  
8 Jones when she was hired back as a dispatcher  
9 in which a probationary status was discussed,  
10 right?

11 A. Like I said --

12 Q. Did you understand my question? This is  
13 a yes or no question.

14 A. I don't believe it is, sir.

15 Q. Did you ever have a conversation, prior  
16 to this Christmas party of 2003, in which Ms.  
17 Jones probationary status was discussed with  
18 her?

19 A. Not prior to it, no.

20 Q. Okay. You didn't tell her she was going  
21 to be on probation, correct?

22 A. Correct.

23 Q. You didn't discuss whether she would not  
24 be on probation?

1 A. Correct.

2 Q. It never came up? Correct?

3 A. The term new hire was the only phrase --

4 Q. Sir, did you understand my question?

5 A. Yes, I did, and I'm trying to clarify.

6 Q. Answer the question.

7 Did the term probation -- it never  
8 came up, never came up, did it?

9 A. No it never came up.

10 Q. It never came up with the chief, either,  
11 did it?

12 A. Sorry, I didn't --

13 Q. You said that you went back and forth  
14 with the chief, or at least you went to the  
15 chief about her being hired?

16 A. Yes.

17 Q. And you discussed seniority, correct?

18 A. That's correct.

19 Q. And the contract with the officers has a  
20 provision for embracing seniority after six  
21 months, correct?

22 A. We didn't discuss the contract. I  
23 discussed what she had asked me.

24 Q. You just asked the chief about whether

1 she would have seniority, correct?

2 A. Yes.

3 Q. And the chief said no, no seniority,  
4 correct?

5 A. That wasn't his full reply, no.

6 Q. Did he say that?

7 A. That was part of it.

8 Q. Did he say she was going to be a new  
9 hire?

10 A. Yes, he did.

11 Q. But never mentioned the word  
12 "probation"?

13 A. Not to me.

14 MR. ROGAL: May we just have a  
15 moment.

16 (Pause.)

17 MR. ROGAL: Nothing further. Take  
18 that back.

19 BY MR. ROGAL:

20 Q. Your affidavit doesn't use the word  
21 probation, right, doesn't reflect in any way  
22 any discussion ever of a conversation with the  
23 chief or with Ms. Jones about her going back  
24 in some kind of a probation designation?

1 A. I don't recall saying that, no.

2 Q. Would you like to look at that?

3 (Witness reviews document.)

4 A. No mention of probationary.

5 Q. Is your affidavit signed on August 6th  
6 of 2003, correct?

7 A. Yes.

8 Q. And in aid of the town's effort to  
9 enjoin this arbitration, correct?

10 A. Yes.

11 MR. ROGAL: And I move this into  
12 evidence.

13 MR. GILMAN: No objection.

14 THE ARBITRATOR: Okay. We will mark  
15 it Union Exhibit 1.

16 (Union Exhibit 1  
17 marked for identification.)

18 MR. ROGAL: Nothing further for this  
19 witness.

20 MR. GILMAN: Can I borrow that for a  
21 minute.

22 REDIRECT EXAMINATION BY MR. GILMAN:

23 Q. Lieutenant, you have been a member of  
24 the department for 25 years?



1 Q. At some point she resigned her position  
2 as a dispatcher?

3 A. Yes. I'm aware she resigned her  
4 position.

5 Q. And was there any point in time after  
6 that when she spoke to you about returning to  
7 the department?

8 A. Yes. We had several conversations about  
9 when a position became available, we had  
10 several conversations that there was a  
11 position available.

12 Q. Did she have any interest in a police  
13 officer's position? Did she ever express that  
14 to you?

15 A. Yes. We had -- we had conversation  
16 during -- we have had many conversations. She  
17 expressed interest in -- at some point to  
18 become a police officer.

19 Q. And bringing you up to the time that she  
20 was hired as a full-time dispatcher in  
21 December of 2002, did you have any  
22 conversation with her at that time about the  
23 terms and conditions of her employment?

24 A. We met in my office, with Officer Hutton

1       one day, and I can't recall if she was asked  
2       to come in or she and Adam just showed up.  
3       And we spoke about the position.

4                She made an inquiry regarding  
5       seniority, her pay. And that was the part --  
6       that was all part of that conversation.

7       Q. And the position that you referenced,  
8       was the full-time dispatch position?

9       A. Yes.

10      Q. Were you able to answer her questions  
11      regarding her seniority and pay?

12      A. After speaking with Chief Mason I was,  
13      yes.

14      Q. And what was it you then told Ms. Jones  
15      about that?

16      A. I was told that she would not be able to  
17      get her seniority back. That she was coming  
18      onboard as a new employee, but that we would  
19      try to, at the time, start her at step level  
20      3, I believe it was, on the pay scale.

21      Q. Do you know what the rationale for  
22      starting her at a higher step was?

23      A. Yes. Because she had the experience and  
24      the training, and we would not have to do

1           that, like with somebody else.

2                       She was coming back. She was trained  
3           in the dispatch, so we won't have to do that.  
4           So we -- it was a suggested, or attempted for a  
5           level 3. Or subsequently the chief called  
6           me -- I can't remember if it was a day -- a day  
7           later or that same day. And then I called Ms.  
8           Jones or -- I either called her or Officer  
9           Hutton's cell phone, I can't remember which  
10          one, and explained that -- I spoke with her, it  
11          would have to be step level 2. And she agreed  
12          with it.

13          Q. Now, at the time that she was rehired,  
14          was she working as a special officer for the  
15          Town of Harwich?

16          A. I believe she was.

17          Q. And do you know how her rate of pay as a  
18          special officer related to how she was going  
19          to get paid as a dispatcher?

20          A. The only thing I knew, make sure she was  
21          not going to get -- be compensated less as a  
22          dispatcher than as a special officer.

23          Q. By that you mean if step 1 dispatch pay  
24          is less than her rate as a dispatcher, there